

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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Chapter 13

In re  
Elizabeth and Jeffrey Fortunato,

Case No. 10-23916(RDD)

Debtors.

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**ORDER GRANTING DEBTORS' MOTION FOR VIOLATION OF LOSS  
MITIGATION ORDER AND FED. R. BANKR. P. 3002.1**

Upon (a) the motion, dated January 23, 2014 (Doc # 64) of the above debtors (the "Debtors"), by their counsel, Michael H. Schwartz, P.C. for an order under General Order M-413 and Local Bankruptcy Rule 9019-2 for damages incurred based on JP Morgan Chase Bank, NA's ("Chase") alleged breach of the Court's order approving a loan modification under Bankruptcy Rule 9019 and General Order M-413, and (b) and upon the motion, dated February 17, 2014 (Doc # 65) of the Debtors for an order pursuant to Bankruptcy Rule 3002.1(b) and (f)(2) for damages incurred based on Chase's alleged improper payment changes (together, the "Motions"); and there being due and sufficient notice of the Motions; and upon Chase's objection to the Motions; and upon the record of the hearings held by the Court on the Motions on March 12, 2014, April 23, 2014, May 7, 2014 and July 16, 2014; and, after due deliberation, the Court having found and concluded, for the reasons stated in its bench rulings at the hearings, that (1) it has core jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and (b) and 1334, (2) the Motions were procedurally proper, (3) Chase had failed to comply with the Court's order approving the Debtors' loan modificatin under Bankruptcy Rule

9019-2 and General Order M-413, as well as Bankruptcy Rule 3002.1(b); and the Court at the July 16, 2014 hearing having directed counsel for the Debtors to submit his time records in connection with this matter to establish compensatory damages related to the foregoing, and counsel having done so on notice to Chase, which has not objected to the reasonableness of such fees; and the Court having found, based on its review of such records that the amount provided herein constitutes fair and reasonable legal fees and expenses as compensatory damages for Chase's actions; now, therefore, good and sufficient cause appearing, it is hereby

ORDERED, that J.P. Morgan Chase Bank, NA shall promptly pay the sum of \$16,000 in legal fees as compensatory damages to counsel for the Debtors, Michael H. Schwartz, P.C. One Water Street, White Plains, New York 10601.

Dated: White Plains, New York  
November 6, 2014

/s/Robert D. Drain  
Hon. Robert D. Drain  
U.S. Bankruptcy Judge